assessed the business for taxation, and the relator resisted this taxation on the ground that the cab service was interstate commerce. *Held*, that it was not interstate commerce. *People, ex rel. Penn. R. Co.* v. *Knight* (1902, — N. Y. —, 64 N. E. Rep. 152.

It is the character of the service, not of the carrier, said the court, that determines this question. This cab service is merely a carriage between two points within the state, under a separate contract, and not restricted to travelers on the road. It can only become interstate under a contract for continuous carriage to or from some outside point. The court cited and relied upon, among others, these cases: *Railroad Co.* v. *Interstate Commerce Commission*, 162 U. S. 184; *Railroad Co.* v. *Behlmer*, 175 U. S. 648; *Munn* v. *Illinois*, 94 U. S. 113; *Railway Co.* v. *Interstate Commerce Commission*, 74 Fed. 803; *Interstate Commerce Commission* v. *Railroad*, 167 U. S. 633. Bartlett, J., dissented, contendiug that the cab service was interstate commerce; that the relator simply extended its care of passengers at a loss to itself, and provided an additional means of transportation. He cited *People* v. *Wemple*, 138 N. Y. 1; *The Daniel Ball*, 10 Wall. 557; *Foster* v. *Davenport*, 22 How. 244; *Cutting* v. *Navigation Co.*, 46 Fed. Rep. 641; *Leloup* v. *Port of Mobile*, 127 U. S. 640; *Crutcher* v. *Kentucky*, 141 U. S. 47. There would seem to be no other case precisely in point. If the cab service operated as an inducement to travelers to use relator's road, it would seem interstate commerce, otherwise not. The fact that this service was conducted at a loss would be some evidence that it was not an entirely independent service but intended as an aid to the railroad.

TRUSTEE—LIABILITY—NOTICE.—Defendant, as an attorney, in 1886, drew a deed of trust, to secure two notes,—one payable to Rebecca G., and the other to Benjamin G. The party for whom the paper was drawn took it away, unexecuted, and later executed and recorded it, without any knowledge or agency on the part of defendant. The latter forgot about the matter until 1898, twelve years later, when Rebecca G. demanded that he, as trustee, should sell the land. Defendant asked for the deed, and was referred to the registry of the same; unknown to the defendant, the record was defective. As recorded, the deed named defendant as trustee, and required him "to pay in full the note to Rebecca G., and the surplus, if any," to the grantor. The note of Benjamin G. was not mentioned. At the sale of the land it was purchased by Rebecca G. for less than the amount of her note. Plaintiff became holder of the other note in 1901, up to which time no notice of its existence had been given to the trustee. *Held*, that defendant was not chargeable with notice of defect in deed as recorded. *Goodyear* v. *Cook* (1902), — N. C. —, 42 S. E. Rep. 332.

The court said: "The mere fact that the defendant had once drawn a trust deed for the grantor, requiring payment of the $175 note out of proceeds of sale, as well as payment of the $370 note, which alone is required by the deed as recorded, was no notice to him that the deed was improperly registered." The learned court cites no authorities in support of its decision, but common sense and justice would not well admit of any other holding. *Goodwin* v. *Dean*, 50 Conn. 517, is directly in point. In that case the court said: "Drawing deeds is a part of the ordinary business of a practicing attorney, and something that he may have occasion to do several times in a day. If any man should remember the details of a single transaction of the kind for nine years, it would be a remarkable instance of a retentive memory. It is certainly not to be expected as a common thing. No principle of law is founded on an assumption that that will happen which seldom or never does happen." Carpenter, J., in this Connecticut case, cites no authorities but

any other rule would require almost superhuman ability on the part of an attorney. And in those cases where it is sought to impute to the client the knowledge once possessed by the attorney, "the agent could not reasonably be expected to disclose information which, though once possessed by him, had been, in fact, forgotten." Mechem on Agency, § 721; *Constant* v. *University*, 111 N. Y. 604, 19 N. E. 631, 7 Am. St Rep. 769, 2 L. R. A. 734; *Melms* v. *Brewing Co.*, 93 Wis. 153, 57 Am. St. Rep. 899.

RECENT LEGAL LITERATURE

A TREATISE ON THE AMERICAN LAW OF REAL PROPERTY. By Emory Washburn, formerly Professor of Law in Harvard University. Sixth Edition, revised and edited by John Wurts, Professor of the Law of Real Property in the Yale Law School. In three volumes. Little, Brown & Co., Boston, 1902.

The modern changes in industrial and business methods and the opening of new avenues of activity, so characteristic of our times, are necessarily having an influence upon the law. Not that the new in our jurisprudence is supplanting the old to any considerable extent, so far as fundamental principles are concerned, or that the old precedents are no longer regarded; but our new and extending commercial relations, and particularly our new ways of doing things, are bringing continually before the courts for adjustment situations that are novel and that demand an original application of principles. The new application of established doctrines to changed and changing conditions is now so frequent that the practitioner must always be on the alert for the latest expression of judicial opinion upon the subject that he has in hand. Under ordinary conditions, an occasional restatement of the law in the form of treatises and encyclopedias has been demanded, but under the present conditions of rapid change and development, a frequent restatement has become a necessity. Usually such restatements serve the profession best, if in the form of an original work, for by the recasting of the subject and a discussion of it from the modern point of view, the present application of the principles can, as a rule, be more clearly and logically shown than by editorial changes and additions. And yet, in some departments of the law, where the effects of present activity and development have been less marked, and where we have treatises of acknowledged merit that have attained the rank of authorities, the careful editor who, by modernizing the text and by judicious annotations, makes the book a working tool for the lawyer and student of to-day, serves the profession perhaps quite as well as he would by the more ambitious work of authorship. Certainly Professor Wurts is to be congratulated upon having made an edition of a well-known treatise that is superior in many respects to any of the former editions, and that in the main will serve well the purpose for which it was intended.

Since 1860, when the first volume appeared, Mr. Washburn's work on Real Property has been regarded as the standard American treatise upon the subject. It supplied a real need, and was at once recognized as accurate and comprehensive. The work has a place in every well selected law library, is taken as the basis for instruction in the subject in many of our law schools, and has served as a pattern and guide to subsequent authors. Its frequent